

(Dr. Holt, Australia)

developing countries. At the same time, the programme, as we all know, represents something of a departure from past practice in the activities of the outer space Committee; we hope strongly that it will be a success, and we shall be looking with confidence to the expert on space applications and to the staff of the Outer Space Affairs Division to make it so. At the same time, of course, it is fair to add that the programme will have to be judged in future on the basis of the response it attracts and on the results it achieves, particularly for the developing countries, which it is particularly designed to serve.

This is all that my delegation would like to say at this stage on the two space items that are under consideration.

Dr. SHALAN (Brazil): The year 1971 has been a very

fruitful one for outer space affairs. New and far-reaching exploits have been carried out by the space Powers, and in the legal field the Committee on the Peaceful Uses of Outer Space has also been able to make a remarkable achievement.

After eight years of negotiation, its Legal Sub-Committee was finally able to conclude the text of a draft liability convention for damage caused by space objects. Another brick has thus been laid in the progressive construction of the juridical framework for outer space activities. May the example set by the high spirit of compromise that prevailed among the great majority of members of the Committee illuminate the road still ahead, so that we can achieve harmonious and effective solutions to the many important problems which remained unresolved.

The liability convention itself is not perfect. Like every work of man, it reflects our individual imperfections, and, like every multilateral agreement, it is the result of a complex set of divergent forces. Fortunately, juridical and political considerations were capable of making some points and paved the way for the solution finally reached. The thin threads that for a long time defied our negotiating skill, the clauses of the applicable law and of the settlement of claims, were at last agreed upon with the support of a large majority of members of the Committee. The resulting compromises in each case were made possible by significant concessions from both sides. And that, after all, is the way in which international law is made. International law presupposes, above all, the consent of States, so that it can be duly enforced.

(Dr. Franco, Brazil)

There exists no supra-national police power to guarantee enforcement. States are invited to place themselves voluntarily under the sway of the treaty, which must therefore, be acceptable to all, particularly to those that may be eventually required to fulfill specific obligations under it.

Let me make clear that I am not proposing realism or pragmatism as the standard for the solution of our common problems. Quite the contrary, we would have very much preferred a treaty which would reflect more closely the positions consistently upheld by my delegation in the course of its active participation in the debates of the outer space Committee and of the Legal Sub-Committee. But I cannot fail to recognize the fact that a certain dose of give-and-take is inevitable when there is a political will to arrive at universal and enforceable solutions.

It is not my intention to dwell upon previous criticisms of the draft liability convention. Let me just remark, nonetheless, that our main concern regarding its provisions was the solution envisaged for the problem of the applicable law, or, in other words, the measure of compensation. My delegation would have preferred the adoption of the principle of the lex loci delicti commissi, instead of the *lex domicilii* ad interim. We felt, however, that in this case, as in the question of the settlement of claims, it would be better to have a compromise solution -- which can perhaps in the future be brought closer to perfection -- than to have no solution at all.

It is, therefore, the hope of the Brazilian delegation that the present session of the General Assembly will endorse and finally adopt the text which has been put forward by the outer space Committee. We believe it to be the best possible solution at the present stage.

In this connection, and assuming that the draft liability convention will be adopted by the General Assembly and opened for the signature of Member States, the Brazilian Government will be in a position to re-examine its stand on the agreement on the rescue of astronauts, the return of astronauts and the return of objects launched into outer space. As a matter of fact, my Government has consistently advocated that the conclusion of the liability convention, of more general interest, is a prerequisite for its adherence to the convention on astronauts, which is undoubtedly an instrument of more restricted scope.